

J. Paul Gignac, State Bar No. 125676
Mischa N. Barteau, State Bar No. 274474
ARIAS OZZELLO & GIGNAC LLP
115 S. La Cumbre Lane, Suite 300
Santa Barbara, California 93105
Telephone: (805) 683-7400
Facsimile: (805) 683-7401
j.paul@aogllp.com
mbarteau@aogllp.com

J.A. Ted Baer, State Bar No. 135092
LAW OFFICE OF J.A. TED BAER
21 E. Canon Perdido Street, Suite 223
Santa Barbara, California 93101
Telephone: (805) 963-7177
Facsimile: (801) 730-2874
ted@tedbaerlaw.com

Attorneys for Plaintiff
Kelly Wilson

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

KELLY WILSON, an individual,

Plaintiff,

vs.

THE WALT DISNEY COMPANY, a Delaware corporation; DISNEY ENTERPRISES, INC., a Delaware corporation; WALT DISNEY PICTURES, a California corporation; WALT DISNEY MOTION PICTURES GROUP, INC., a California corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No. 3:14-cv-01441-VC

DECLARATION OF MISCHA N. BARTEAU IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Judge: Hon. Vince G. Chhabria
Date: April 9, 2015
Time: 10:00 a.m.
Ctvm: 4

DECLARATION OF MISCHA N. BARTEAU

I, Mischa N. Barteau, hereby declare:

1. I am an attorney at law, duly licensed to practice before all courts of the State of California and the United States District Court for the Northern District of California. I am an associate at the law firm of Arias Ozzello & Gignac LLP, counsel of record for Plaintiff in the above-entitled action. I am personally familiar with the matters stated herein, and if called upon to testify concerning such matters, I could and would testify accordingly.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the assignment of rights from Neil Wrischnik to Kelly Wilson that was produced by Plaintiff in this case.

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from the transcript of the deposition of Peter Del Vecho.

4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the transcript of the deposition of Paul Briggs.

5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from the transcript of the deposition of James Christopher Buck ("Chris Buck").

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the transcript of the deposition of John Lasseter.

7. Attached hereto as **Exhibit 6** is a true and correct copy of the document labeled TWDC_00002615 that was produced by defendants The Walt Disney Company, Disney Enterprises, Inc., Walt Disney Pictures, and Walt Disney Motion Pictures Group, Inc. ("Defendants") in this action.

8. Attached hereto as **Exhibit 7** is a true and correct copy of the documents labeled WDP_00000001- WDP_00000004 that were produced by Defendants in this action.

9. Attached hereto as **Exhibit 8** is a true and correct copy of the documents labeled WDP_00000041- WDP_00000060 that were produced by Defendants in this action.

10. Attached hereto as **Exhibit 9** is a true and correct copy of the documents labeled WDP_00000008- WDP_00000010 that were produced by Defendants in this action.

11. Attached hereto as **Exhibit 10** is a true and correct copy of the document labeled WDP_000000011 that was produced by Defendants in this action.

12. Attached hereto as **Exhibit 11** is a true and correct copy of the documents labeled WDP_000000061- WDP_000000065 that were produced by Defendants in this action.

13. Attached hereto as **Exhibit 12** is a true and correct copy of the documents labeled WDP_000000066-WDP_00000123 that were produced by Defendants in this action.

14. Attached hereto as **Exhibit 13** is a true and correct copy of the document labeled WDP_00000139 that was produced by Defendants in this action.

15. Attached hereto as **Exhibit 14** is a true and correct copy of the document labeled WDP_00000140 that was produced by Defendants in this action.

16. Attached hereto as **Exhibit 15** is a true and correct copy of the document labeled WDP_00000146 that was produced by Defendants in this action.

17. Attached hereto as **Exhibit 16** is a true and correct copy of the document labeled WDP_00000149 that was produced by Defendants in this action.

18. Attached hereto as **Exhibit 17** is a true and correct copy of the document labeled WDP_00000153 that was produced by Defendants in this action.

19. Attached hereto as **Exhibit 18** is a true and correct copy of the document labeled WDP_00000154 that was produced by Defendants in this action.

20. Attached hereto as **Exhibit 19** is a true and correct copy of the *Awesome Robo!* blog entry dated June 18, 2013 entitled “THE UNCANNY RESEMBLANCE BETWEEN DISNEY’S ‘FROZEN’ TEASER AND A 2009 STUDENT ANIMATION” at <http://www.awesome-robo.com/2013/06/the-uncanny-resemblance-between-disneys.html>.

21. Attached hereto as **Exhibit 20** is a true and correct copy of email from Randee Dawn to Kelly Wilson dated June 19, 2013 that was produced by Plaintiff in this case.

22. Attached hereto as **Exhibit 21** is a true and correct copy of the webpage which features a video review of the *FROZEN* teaser trailer and was posted on YouTube at <http://www.youtube.com/watch?v=qanoZhFNfD8>.

23. Attached hereto as **Exhibit 22** is a true and correct copy of email from Larry Wright to Kelly Wilson dated November 28, 2013 that was produced by Plaintiff in this case.

24. Attached hereto as **Exhibit 23** is a true and correct copy of the analytics section of Neil Wrischnik's YouTube account that was produced by Plaintiff in this case. This information is not publicly accessible. Neil Wrischnik provided me with his login information in order to access this information.

25. Attached hereto as **Exhibit 24** is a true and correct copy of the analytics section of Neil Wrischnik's YouTube account that was produced by Plaintiff in this case. This information is not publicly accessible. Neil Wrischnik provided me with his login information in order to access this information.

26. Attached hereto as **Exhibit 25** is a true and correct copy of the analytics section of Neil Wrischnik's YouTube account that was produced by Plaintiff in this case. This information is not publicly accessible. Neil Wrischnik provided me with his login information in order to access this information.

27. Attached hereto as **Exhibit 26** is a true and correct copy of an Excel spreadsheet that was downloaded from the analytics section of Neil Wrischnik's YouTube account that was produced by Plaintiff in this case. This information is not publicly accessible. Neil Wrischnik provided me with his login information in order to access this information. The attached copy was created by saving the Excel spreadsheet in PDF format.

28. Attached hereto as **Exhibit 27** is a true and correct copy of the analytics section of Neil Wrischnik's Vimeo account that was produced by Plaintiff in this case. This information is not publicly accessible. Neil Wrischnik provided me with his login information in order to access this information.

29. Attached hereto as **Exhibit 28** is a true and correct copy of the analytics section of Neil Wrischnik's Vimeo account that was produced by Plaintiff in this case. This information is not publicly accessible. Neil Wrischnik provided me with his login information in order to access this information.

30. Attached hereto as **Exhibit 29** is a true and correct copy of the analytics section of Neil Wrischnik's Vimeo account that was produced by Plaintiff in this case. This information is not publicly accessible. Neil Wrischnik provided me with his login information in order to access this information.

31. Attached hereto as **Exhibit 30** is a true and correct copy of the WayBack Machine Internet Archive page which provides a snapshot of what kellywilsonfilms.com looked like on May 12, 2010. This document is publicly accessible at the following address: <https://web.archive.org/web/20100512184725/http://kellywilsonfilms.com/>.

32. Attached hereto as **Exhibit 31** is a true and correct copy the documents labeled WDP_00035192- WDP_00035192 that was produced by Defendants in this action and marked as Exhibit 145 at the deposition of James Christopher Buck.

33. Attached hereto as **Exhibit 32** is a true and correct copy the documents labeled WDP_00059437- WDP_00059442 that was produced by Defendants in this action.

34. Attached hereto as **Exhibit 33** is a true and correct copy the letter received from General Counsel for Vimeo on February 10, 2014, in response to Plaintiff's subpoena.

35. Attached hereto as **Exhibit 34** is a true and correct copy the documents submitted with the job application on March 20, 2008 to Pixar that was produced by Plaintiff in this case.

36. Attached hereto as **Exhibit 35** is a true and correct copy the documents submitted with the job application on September 24, 2008 to Pixar that was produced by Plaintiff in this case.

37. Attached hereto as **Exhibit 36** is a true and correct copy the documents submitted with the job application on October 12, 2009 to Pixar that was produced by Plaintiff in this case.

38. Attached hereto as **Exhibit 37** is a true and correct copy the documents submitted with the job application on October 29, 2009 to Pixar that was produced by Plaintiff in this case.

39. Attached hereto as **Exhibit 38** is a true and correct copy the documents submitted with the job application on September 27, 2011 to Playdom that was produced by Plaintiff in this case.

1 40. Attached hereto as **Exhibit 39** is a true and correct copy the documents submitted
2 with the job application on September 27, 2011 to Pixar that was produced by Plaintiff in this
3 case.

4 41. Attached hereto as **Exhibit 40** is a true and correct copy the documents submitted
5 with the job application on November 21, 2011 to Playdom that was produced by Plaintiff in
6 this case.

7 42. Attached hereto as **Exhibit 41** is a true and correct copy the documents submitted
8 with the job application on February 2, 2012 to Cinderbiter that was produced by Plaintiff in
9 this case.

10 43. Attached hereto as **Exhibit 42** is a true and correct copy of excerpts from the
11 transcript of the deposition of Matt Roberts.

12 44. Attached hereto as **Exhibit 43** is a true and correct copy the documents submitted by
13 Neil Wrischnik with the job application in December 2008 to Walt Disney Animation Studios
14 that was produced by Plaintiff in this case.

15 45. Attached hereto as **Exhibit 44** is a true and correct copy the documents submitted by
16 Neil Wrischnik with the job application on June 25, 2009 to Walt Disney Animation Studios
17 that was produced by Plaintiff in this case.

18 46. Attached hereto as **Exhibit 45** is a true and correct copy the documents submitted by
19 Neil Wrischnik with the job application in July 2009 to Walt Disney Animation Studios that
20 was produced by Plaintiff in this case.

21 47. Attached hereto as **Exhibit 46** is a true and correct copy the documents submitted by
22 Neil Wrischnik with the job application in July 2009 to Pixar that was produced by Plaintiff in
23 this case.

24 48. Attached hereto as **Exhibit 47** is a true and correct copy the documents submitted by
25 Neil Wrischnik with the job application in January 2010 to Pixar that was produced by Plaintiff
26 in this case.
27
28

1 49. Attached hereto as **Exhibit 48** is a true and correct copy the documents submitted by
2 Neil Wrischnik with the job application in February 2010 to Pixar that was produced by
3 Plaintiff in this case. An animation reel was submitted with this job application which
4 contained a version of *The Snowman* that was complete except for the music. The animation
5 reel was produced by Plaintiff in this case.

6 50. Attached hereto as **Exhibit 49** is a true and correct copy the documents submitted by
7 Neil Wrischnik with the job application in April 2010 to Walt Disney Animation Studios that
8 was produced by Plaintiff in this case.

9 51. Attached hereto as **Exhibit 50** is a true and correct copy the documents submitted by
10 Neil Wrischnik with the job application in March 2010 to Pixar Canada that was produced by
11 Plaintiff in this case.

12 52. Attached hereto as **Exhibit 51** is a true and correct copy the “San Francisco
13 International Film Festival 2011 Program Guide” produced by third party Carlos Baena and
14 marked as Exhibit 134 at the deposition of Carlos Baena. Page four of the program guide lists
15 the films in the series “Do You See What I See?” in the order they screened. The date it was
16 screened is listed on the bottom of page four.

17 53. Attached hereto as **Exhibit 52** is a true and correct copy the “2011 Schools at the
18 Festival Outreach Program” from the San Francisco Film Festival marked as Exhibit 140 at the
19 deposition of Carlos Baena. This document was obtained from the San Francisco Film Society
20 and produced to Defendants. Page three of the program guide lists the films in the series “Do
21 You See What I See?” in the order they screened and the dates played.

22 54. Attached hereto as **Exhibit 53** is a true and correct copy of excerpts from the
23 transcript of the deposition of Carlos Baena.

24 55. Attached hereto as **Exhibit 54** is a true and correct copy the “2011 Schools at the
25 Festival Study Guide for Do You See What I See?” that was obtained in response to Plaintiff’s
26 subpoena to the San Francisco Film Society and produced to Defendants in this case.
27
28

1 56. Attached hereto as **Exhibit 55** is a true and correct copy of badges for cast and crew
2 of *Play by Play* that was obtained in response to Plaintiff's subpoena to the San Francisco Film
3 Society and produced to Defendants in this case.

4 57. Attached hereto as **Exhibit 56** is a true and correct copy of an email from Keith
5 Zwolfer at the San Francisco Film Society to Carlos Baena dated May 12, 2011 produced by
6 third party Carlos Baena and marked as Exhibit 33 at the deposition of Carlos Baena. Page two
7 shows a list of people confirmed to attend the screening of "Do You See What I See?"

8 58. Attached hereto as **Exhibit 57** is a true and correct copy of an excel spreadsheet
9 listing certain attendees confirmed at the May 1, 2011 screening of "Do You See What I See?"
10 This document was obtained in response to Plaintiff's subpoena to the San Francisco Film
11 Society and produced to Defendants in this case.

12 59. Attached hereto as **Exhibit 58** is a true and correct copy of the documents labeled
13 PIXAR_00001288- PIXAR_00001294 that were produced by Defendants/Pixar in this case.

14 60. Attached hereto as **Exhibit 59** is a true and correct copy of the documents labeled
15 PIXAR_00001315- PIXAR_00001320 that were produced by Defendants/Pixar in this case.

16 61. Attached hereto as **Exhibit 60** is a true and correct copy of the documents labeled
17 PIXAR_00001425 that were produced by Defendants/Pixar in this case.

18 62. Attached hereto as **Exhibit 61** is a true and correct copy of a document produced by
19 the Santa Barbara International Film Festival in response to Plaintiff's subpoena showing the
20 screening dates of *The Snowman* at the top of the page. This document was produced to
21 Defendants in this case.

22 63. Attached hereto as **Exhibit 62** is a true and correct copy of the documents labeled
23 TWDC_00000942- TWDC_00000946 that were produced by Defendants/Pixar in this case.

24 64. Attached hereto as **Exhibit 63** is a true and correct copy of the IMDB.com entry for
25 *La Luna*, listing John Lasseter as the executive producer. This document is publicly accessible.

26 65. Attached hereto as **Exhibit 64** is a true and correct copy of the documents labeled
27 PIXAR_00002530- PIXAR_00002533 that were produced by Defendants/Pixar in this case.
28

1 66. Attached hereto as **Exhibit 65** is a true and correct copy of the documents labeled
2 PIXAR_00002817- PIXAR_00002828 that were produced by Defendants/Pixar in this case.

3 67. Attached hereto as **Exhibit 66** is a true and correct copy of an email from Chris
4 Wiggum at Pixar to Carol Marshall at the Santa Barbara International Film Festival. This
5 document was obtained from the Santa Barbara International Film Festival in response to
6 Plaintiff's subpoena and was provided to Defendants in this case.

7 68. Attached hereto as **Exhibit 67** is a true and correct copy of the documents labeled
8 PIXAR_00002599- PIXAR_00002602 that were produced by Defendants/Pixar in this case.
9

10 I declare under penalty of perjury under the laws of the United States of America
11 that the foregoing is true and correct.

12 Executed this 5th day of March 2015, at Santa Barbara, California.

13
14 
15 Mischa N. Barteau
16
17
18
19
20
21
22
23
24
25
26
27
28